

UNITED STATES COURT OF FEDERAL CLAIMS

STEPHANIE MERCIER, et al.,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendants.

No. 12-920C

DECLARATION OF FRANK J. TRANI
IMPLEMENTATION OF NOTICE PLAN BY CLASS ACTION ADMINISTRATOR

I, FRANK J. TRANI, hereby declare and state as follows:

I. INTRODUCTION

1. ***Personal Information.*** My name is Frank J. Trani. I am an attorney at BrownGreer PLC (“BrownGreer”), located at 250 Rocketts Way, Richmond, Virginia 23231.

2. ***The Capacity and Basis of this Declaration.*** I am over the age of 21. The matters set forth in this Declaration are based upon my personal knowledge and information provided by other BrownGreer employees and vendors selected by BrownGreer working under my supervision.

II. BACKGROUND AND EXPERIENCE

3. ***General Description of BrownGreer.*** BrownGreer has specialized in notice and settlement administration since its founders, Orran L. Brown, Sr. and Lynn Greer, established the firm in 2002. We are experts in the legal and administrative aspects of the design, approval, and implementation of notice plans and settlement programs, and the design, staffing and operation

of claims facilities to provide damages payments, medical monitoring, or other benefits for the resolution of multiple claims through class action settlement, bankruptcy reorganization, voluntary agreement, or other aggregation vehicles. BrownGreer has performed notice administration, claims administration, and/or claims review roles in over 65 major programs involving more than three million claimants and the disposition of over \$29 billion in payments to qualifying claimants. In the course of implementing claims programs, BrownGreer has designed, written, and issued over 12 million notices to claimants and counsel describing the outcome of the review of their claims or providing courtesy program information or instructions. BrownGreer has also served as the Notice Administrator in programs involving direct notices sent by mail or email to over 30 million class members.

4. ***BrownGreer's Designation as Class Action Administrator.*** On June 7, 2018 the Court entered its Order granting Plaintiffs' motion for class certification. On August 22, 2018, the Court entered another Order approving the parties' joint proposed plan ("Notice Plan") for providing notice to potential Class Members in the above-captioned action. The Notice Plan designated BrownGreer as the Class Action Administrator.

5. ***The Role of the Class Action Administrator.*** The Class Action Administrator's primary duties in the Notice Plan are:

- (a) Obtain and develop into a class database the names, status as Advance Practice Registered Nurses ("APRNs"), Physician's Assistants ("PAs"), or New Facilities Sub-Class members ("Sub-Class"), and contact information for all Class Members.

- (b) Oversee the mailing of the notices by electronic form when an e-mail address is known and by regular mail to the entire class, using the last known mailing addresses and e-mail addresses of the identified Class Members;
- (c) Maintain logs of returned mail, attempt to find updated addresses for returned mail and log such efforts, and re-send the notices if updated addresses are found and log those details;
- (d) Develop and maintain an informational website regarding the lawsuit and notice and instructions for opting-in to the class.
- (e) Accept and log Plaintiff Consent Form and Declarations (“Opt-In forms”) from Class Members who have opted in;
- (f) Conduct preliminary review of information provided on Opt-In forms received to verify that each opt-in plaintiff meets the requirements for participation in the class; and
- (g) Prepare reports of class administration activities for the Court.

Immediately following entry of the August 22, 2018 Order, BrownGreer began to implement the Notice Plan and otherwise carry out its role as Class Action Administrator.

6. ***The Purpose of This Declaration.*** Pursuant to Paragraph 9 of the Preliminary Approval Order, I submit this Declaration to (1) evidence BrownGreer’s compliance with the provisions of the Notice Plan and (2) detail BrownGreer’s execution of its role as Class Action Administrator.

III. EXECUTION OF CLASS ACTION ADMINISTRATOR DUTIES

7. BrownGreer obtained from Class Counsel, a list of the names, status, address, and email address information of those individuals designated as identified Class Members.

8. After reviewing the list for any apparent duplicates, BrownGreer determined that the list contained mailing addresses information for exactly 16,000 unique identified Class Members, with 10,152 of them having applicable email addresses.

9. BrownGreer selected Smith-Edwards-Dunlap Company (“SED”) as its printing and mailing vendor for the Class Notice mailing. SED was established following the merger of two companies that were both founded over 100 years ago and is now one of the largest commercial printing and graphic arts organizations in the Mid-Atlantic region. BrownGreer has previously collaborated with SED on numerous other printing and mailing projects. SED’s portion of this project was managed by Jonathan Shapiro. BrownGreer coordinated all aspects of SED’s work with Mr. Shapiro and confirmed with him all information about the work performed by SED.

10. SED printed 16,000 individualized hardcopy Class Notices to be mailed to the identified Class Members. SED performed searches of the National Change of Address database for the previous 18 months to obtain any address updates for these identified Class Members. SED mailed the 16,000 Class Notices by the United States Postal Service by close of business on October 17, 2018.

11. Additionally, on October 17, 2018, BrownGreer sent 10,152 emails containing the Class Notices to all identified Class Members for whom BrownGreer had been provided an email address. The emails contained information about the lawsuit, the relevant Class Notice for that particular Class Member, and instructions for how to opt into the lawsuit. BrownGreer received only four emails returned with an undeliverable result.

12. BrownGreer also created a public informational website (“Website”) in consultation with Class Counsel. The Website (www.vavertimeclassaction.com) was made

available on the internet on October 17, 2018. The Website allows any person with internet access to complete and submit an electronic version of the Opt-In form and to read, download, and print the following critical documents, as required by Notice Plan:

- (a) Order from United States Court of Federal Claims (August 22, 2018)
- (b) Plaintiffs' Second Amended Complaint (August 28, 2018)
- (c) Facility Lists for both Covered Facilities and for New Facilities
- (d) Class Notices and Plaintiff Consent and Declaration Forms for all three Class Member types (APRN, PA, and Sub-Class)

The Website also includes a list of Frequently Asked Questions and answers about the lawsuit drawn from the Notice, presents important summary information about the lawsuit on the Home page, and provides the Class Action Administrator's and Class Counsel's contact information.

13. Following the mailing of the 16,000 hardcopy Class Notices, BrownGreer received 1,741 Class Notices returned by the United States Postal Service as undeliverable. BrownGreer performed an additional address search using LexisNexis, which returned 1,595 updated addresses. BrownGreer then directed SED to print and re-mail those 1,595 Class Notices on December 7, 2018 by the United States Postal Service.

14. Pursuant to the Notice, the deadline for the timely submission of Opt-In forms was January 15, 2019 (*i.e.* post-marked on or before that date if submitted by mail; or electronically submitted on or before that date if submitted on-line).

15. BrownGreer received timely Opt-In forms from 3,072 unique Class Members out of the original list of 16,000 identified Class Members. From those 3,072 unique Class Members, there were 3,509 Opt-In forms submitted, which included 437 duplicate Opt-In forms (some Class Members submitted forms both electronically and by hardcopy, and some Class

Members submitted separate forms for each facility where they had worked). BrownGreer reviewed and identified all such duplicate Opt-In forms to discern the total number of unique identified Class Members to have opted in to be 3,072.

16. BrownGreer also received timely forms from 73 additional individuals, but for which BrownGreer was unable to match the information on the forms with the names of any of the individuals listed among the 16,000 identified Class Members, as provided by Class Counsel.

17. Separate and distinct from the timely Opt-In forms referenced in paragraphs 15 and 16 of this Declaration, BrownGreer has also received 88 Opt-In forms that were submitted after the deadline. Of these, 83 are from individuals on the original list of 16,000 identified Class Members, and five are from individuals that BrownGreer was unable to match to the list of identified Class Members.

18. To date, BrownGreer has not received any requests from any Class Members to be excluded from the lawsuit.

IV. CONCLUSION

19. ***Notice Plan Success.*** The foregoing establishes that the Notice Plan has been fully implemented.

I declare under penalty of perjury under the laws of the United States of America and the Commonwealth of Virginia that the foregoing is true and correct.

Dated this 25th day of February 2019.

A handwritten signature in black ink, reading "Frank J. Trani", is written over a horizontal line.

Frank J. Trani